

S E C T I O N 9 G E N E R A L I N F O R M A T I O N

A P P L I C A B L E L E G I S L A T I O N

P U B L I C L A W 1 0 5 - 2 7 7 (E X C E R P T)

Congress provided the National Park Service with the following special leasing authority in 1998 to facilitate implementation of the Fort Baker Plan:

“Sec. 150. All properties administered by the National Park Service at Fort Baker, Golden Gate National Recreation Area, and leases, concessions, permits, and other agreements associated with those properties, shall be exempt from all taxes and special assessments, except sales tax, by the State of California and its political subdivisions, including the County of Marin and the City of Sausalito. Such areas of Fort Baker shall remain under exclusive Federal jurisdiction.”

“Sec. 151. Notwithstanding any provision of law, the Secretary of the Interior is authorized to negotiate and enter into agreements and leases, without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), with any person, firm, association, organization, corporation, or governmental entity for all or part of the property within Fort Baker administered by the Secretary as part of the Golden Gate National Recreation Area. The proceeds of the agreements or leases shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation, maintenance and interpretation and related expenses incurred with respect to Fort Baker properties.”

P U B L I C L A W 9 2 - 5 8 9 (E X C E R P T)

Congress established the following purpose for the Golden Gate National Parks when it created the Golden Gate National Recreation Area in 1972:

“In order to preserve for public use and enjoyment certain areas of Marin and San Francisco Counties, California, possessing outstanding natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning, the Golden Gate National Recreation Area (hereinafter referred to as the “recreation area”) is hereby established. In the management of the recreation area, the Secretary of the Interior (hereinafter referred to as the “Secretary”) shall utilize the resources in a manner, which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management. In carrying out the provisions of this subchapter, the Secretary shall preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area.”

Congress mandated the following mission for the National Park Service, which was established in 1916:

“There is created in the Department of the Interior a service to be called the National Park Service... The Service thus established shall promote and regulate the use of the Federal areas known as the National Parks, monuments, and reservations hereinafter specified... as provided by law, by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to convey the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

U S E A N D D I S C L O S U R E O F I N F O R M A T I O N

Following the announcement of a selection pursuant to this RFP, all proposals submitted in response to this RFP may be disclosed by the Department of Interior and the National Park Service to any person upon a request pursuant to the Freedom of Information Act.

NPS intends to make available to the public all proposals received in response to this RFP within one week of announcing a selection of a proposal for exclusive negotiations relating to a subsequent agreement(s) and Final Lease for a Project at Fort Baker.

For the purpose of this RFP, a “Trade Secret” means an unpatented, secret, commercially valuable plan, appliance, formula, or process, used for the making, preparing, compounding, treating or processing of articles or materials which are trade-commodities. “Confidential commercial or financial information” means any business information (other than trade secrets) exempt from the Freedom of Information Act, 5 U.S.C. 552. Exemptions from mandatory disclosure that may be applicable to business information contained in proposals include Freedom of Information Act Exemption (4), which covers “commercial and financial information” obtained from a person, which is privileged or confidential, 5 U.S.C. 552(b)(4).

If your RFP submittal contains trade secrets or confidential commercial or financial information exempt from disclosure under the Freedom of Information Act, you must mark the cover page of each copy of your proposal with the following legend:

The information specifically identified on pages ___ of this submittal constitutes trade secrets or confidential commercial or financial information which the proposer believes to be exempt from disclosure under the Freedom of Information Act. The submitter requests that this information not be disclosed to the public, except as may be required by law. The submitter also requests that this information not be used in whole or in part by the government for any purpose other than to evaluate the submitter, except that if any Agreement(s) and Final Lease is awarded to the proposer, the government shall have the right to use the information to the extent provided in the Agreement(s) and Final Lease.

You must also specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and must mark such page with the following legend:

This page contains trade secrets or confidential information, which the submitter believes to be exempt from disclosure under the Freedom of Information Act and is subject to the legend contained in the cover page of this submittal.

The National Park Service shall use information that you identify as trade secrets or confidential commercial and financial information only for the evaluation of your RFP submittal, except that (1) if an Agreement or Final Lease is awarded as a result or in connection with submission of the submittal, the government shall have the right to use the information as provided in the Agreement and Final Lease, and (2) if the same information is obtained from another source without restriction, it may be used without restriction.

If a request under the Freedom of Information Act seeks access to information in the submittal identified as a trade secret information or confidential commercial and financial information, full consideration will be given to your belief that the information constitutes trade secrets or confidential commercial and financial information. The government will promptly notify you of the request and you will be given an opportunity to provide additional evidence and argument in support of your position, unless it is administratively unfeasible to do so. If the government determines that the information claimed by you to be exempt from the Freedom of Information Act is not exempt, you will be notified of this determination to disclose the information.

The National Park Service assumes no liability for the disclosure or use of information contained in a submittal or its attachments if you do not mark it properly with the legends described above. Your failure to mark information contained in your submittal as trade secret or confidential commercial and financial information will be treated by the National Park Service as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as showing that the proposer had intended to mark, but that markings were omitted from the proposal due to clerical error.

L I M I T A T I O N S

Although the Army transferred two hundred fifty-eight (258) acres of open space at Fort Baker to the NPS in 1985 and six and six-tenths (6.6) acres in 1986, the NPS does not currently have jurisdiction over the Project area. According to Public Law 101-510 and the 1995 Defense Realignment and Closure Commission Report, the Fort Baker property is scheduled to be transferred to the NPS by July 2001. However, because the transfer is the responsibility of the Army, the NPS does not make any warranties or guarantees regarding the reliability of the transfer date.

NPS will have authority to execute agreements for the Project parcel at Fort Baker once transfer of land from the Army to the NPS is complete, which is anticipated, but not guaranteed, to occur by July 12, 2001.

The final selection of an RFP response will be made at the sole discretion of the NPS, which is under no obligation to select any proposal submitted in response to this RFP, and may at its discretion reject any or all submissions and terminate this selection process.

All facts and opinions stated herein and in the RFP Exhibits and Supporting Documents, including but not limited to statistical and economic data and projections, are based on available information and no representation or warranty as to their accuracy or completeness or any other particular is made with respect hereto.

NPS reserves the right to deviate from any provision of this RFP, consistent with applicable statutes, regulations and policies. NPS may extend the submission deadline for reasons that are considered by NPS to be in the best interest of the government.

This RFP is only an invitation to submit proposals and does not commit NPS in any way to enter into any agreement(s) or to proceed with the Project outlined in the Fort Baker Plan and FEIS. The issuance of this RFP does not obligate NPS to pay any costs whatsoever incurred by any respondent in connection with:

- The preparation or presentation of qualifications or a proposal.
- Any supplements or modifications to this RFP.
- Negotiations with NPS or any other party arising out of or relating to this RFP or the Project.

Any RFP business offer must be net of a commission to the respondent's or lessee's real estate broker or any other party. NPS does not have statutory authority to pay a commission to the Selected Developer's real estate broker, a lessee's real estate broker, or any other party.

NPS will not evaluate supplemental information or alterations of a proposal that are submitted after the closing of the time period for receipt of proposals, nor will it consider any additional information not specifically requested in writing by NPS.

It is the intention of NPS to select a proposal for exclusive negotiations from the proposals received without further submittals or presentations. NPS reserves the right to select one or more proposals judged to be most responsive to the RFP, and from that group request in writing additional information or presentations prior to a final selection.

The decision by NPS to select a particular respondent to this RFP shall not imply acceptance by NPS of the respondent's business offer, which may be subject to further negotiation prior to approval of any agreement or lease with NPS.

NPS may, at its discretion, terminate any discussions or negotiations that result from this RFP prior to execution of any Agreement(s) or Lease without liability to any party when it is in the best interests of NPS and the government.

All responses to this RFP become the property of NPS, and NPS reserves the right to use concepts, techniques, and ideas that may be presented in any proposal without selecting that proposal or providing compensation to the proposer.

It is the sole responsibility of an RFP respondent to assure itself that the information contained in this document is complete, to investigate and determine conditions at Fort Baker affecting the Project and its RFP response, including but not limited to hazardous materials, and the suitability of conditions and utilities at Fort Baker for any proposed improvements provided by the Selected Developer. NPS intends to convey a leasehold interest in certain buildings and lands at Fort Baker in “as is” condition.

Except as specifically provided for the ENA, LDDA, or Final Lease, NPS reserves the right at any time, and from time to time, for its own convenience, and in NPS’ sole discretion, to cause or do any or all of the following:

- Waive or correct any defect or technical error as to form or content of this RFP or in any response, proposal, or proposal procedure, as part of the RFP or any subsequent selection and negotiation process.
- Reject any and all RFP responses, without indicating any reason for such rejection.
- Reissue an RFQ or RFP.
- Modify or suspend any and all aspects of the RFP selection process.
- Modify the scope of the Project or the required responses, or modify the components of the Project.
- Request that RFP respondents clarify, supplement, or modify the information submitted.
- Extend deadlines for accepting RFP responses, or request amendments to responses after expiration of deadlines.
- Visit comparable projects owned, developed or operated by the RFP respondents.

Selection of a RFP response by NPS and granting of an ENA and LDDA should not be construed as approval of any or all proposed uses, the design of the Project, or that the proposed Project is consistent with the Fort Baker Plan and FEIS. NPS will not execute any Final Lease until it is satisfied, at its sole and absolute discretion, that all necessary environmental assessment and compliance has been completed. The Selected Developer may be required by NPS to submit additional information to NPS for the purposes of conducting any environmental assessment and compliance.

NPS will not return RFP responses or any information submitted by RFP respondents in connection with a response.

NPS reserves the right to disqualify and not select any respondent to this RFP on the basis of any real or apparent conflict of interest that is disclosed by the submitted responses, or on the basis of other data available to NPS. Any false, incomplete, or otherwise unresponsive statements or submitted documents made in connection with an RFP response by the respondent may be cause for disqualification. Any disqualification is at the sole discretion of NPS.

Prior to entering into a Final Lease, NPS will terminate all tenancies in the proposed Premises and Project area.

The Selected Developer will be responsible for obtaining all government approvals required for the proposed Project, and will be responsible for all costs related to obtaining these approvals. In issuing this RFP, NPS makes no representation or warranty that the necessary government approvals can be obtained to allow the operation of the Project.